

**Memorandum**

Date .AUG 26 1997

From June Gibbs Brown
Inspector General *June Gibbs Brown*

Subject Training Costs Claimed By Kansas Under the Title IV-E Foster Care Program
(CIN: A-07-97-01028)

To Olivia A. Golden
Principal Deputy Assistant Secretary
for Children and Families

This memorandum alerts you to the issuance on August 28, 1997 of our final report to the Kansas Department of Social and Rehabilitation Services concerning training costs claimed under title IV-E of the Social Security Act for the period October 1, 1992 through September 30, 1996. A copy is attached.

The objective of the audit was to determine if the training costs claimed were allowable in accordance with applicable laws, regulations and program policies. We found that the State charged the federally supported title IV-E Foster Care program for training costs, which should have been allocated to the State Foster Care program and/or eliminated because the training activities were unallowable. As a result, the title IV-E Foster Care program was overcharged about \$6.8 million (Federal share \$5.1 million) during the audit period. In addition, we found that the State did not have procedures to ensure that training contractors met the 25 percent cost sharing requirement; and made a transposition error in reporting training costs for the quarter ended September 30, 1994 resulting in an overclaim of \$27,000 (Federal share \$20,250).

The Office of Management and Budget Circular A-87 states that costs are allocable to particular cost objectives only to the extent of the benefits received by such objective; only allocable costs are allowable; and costs must be reasonable and necessary for proper administration of the program. The Administration for Children and Families (ACF) issued various policy directives such as ACYF-IM-91-15, which states that training costs for all training must be allocated among all benefitting programs and may not be direct-charge to title IV-E, unless title IV-E is the only benefitting program.

We recommended that the State: (1) refund the \$5.1 million Federal share of training costs which were allocable to the State funded Foster Care program or otherwise unallowable; (2) establish procedures for allocating future training costs to all benefitting programs, segregating costs of joint training that have allowable and unallowable elements, and monitoring contributed cost sharing to ensure that the State's share of title IV-E training costs is funded on a continuous and timely basis; (3) adjust the next quarterly claim to correct for the transposition error; and (4) adjust its subsequent claims for title IV-E to

eliminate inappropriate training costs which should be allocated to the State Foster Care program.

Regional ACF officials agreed with our findings. State officials, while disagreeing with all our findings and recommendations, have indicated changes would be made to their title IV-E program.

In response to the State's conclusions concerning our findings and recommendations, we believe present Federal laws, regulations, policies and Departmental Appeals Board decisions clearly support our position. Consequently, our findings and recommendations based on laws related to the period audited remain unchanged.

Attachment

For further information, contact:

Barbara A. Bennett
Regional Inspector General
for Audit Services, Region VII
(816) 426-3591

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**TRAINING COSTS CLAIMED
BY KANSAS UNDER THE
TITLE IV-E FOSTER CARE PROGRAM**



JUNE GIBBS BROWN
Inspector General

AUGUST 1997
A-07-97-01028



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General
Office of Audit Services

Region VII
601 East 12th Street
Room 284A
Kansas City, Missouri 64106

CIN: A-07-97-01028

Ms. Rochelle Chronister
Secretary of the Kansas Department
of Social and Rehabilitation Services
Docking State Office Building
915 Harrison, Room 603 North
Topeka, Kansas 66612

Dear Ms. Chronister:

This report provides the results of an Office of Inspector General (OIG) Office of Audit Services (OAS) audit entitled, "*TRAINING COSTS CLAIMED UNDER TITLE IV-E OF THE SOCIAL SECURITY ACT*." The purpose of the audit was to determine the allowability of training costs claimed by the Kansas Department of Social and Rehabilitation Services (State) during the period October 1, 1992 through September 30, 1996.

The State charged training costs directly to the federally supported title IV-E Foster Care Program instead of (1) allocating appropriate portions of the costs to the Foster Care program funded by the State and (2) eliminating costs of training activities that were unallowable. As a result, the title IV-E Foster Care program was overcharged about \$6.8 million (Federal share \$5.1 million) during the audit period (See Appendix A for further details). Also, the State (1) did not have procedures to ensure that training contractors met the required 25 percent cost sharing requirement, and (2) made a transposition error in reporting training costs for the quarter ended September 30, 1994 that resulted in an overclaim of \$27,000 (Federal share \$20,250).

We are recommending that the State refund the \$5.1 million Federal share of training costs which were allocable to the State funded Foster Care program. We are also recommending that the State adjust its subsequent claims for title IV-E to eliminate inappropriate training costs which should be allocated to the State Foster Care program. In addition, we are recommending that the State establish procedures for (1) allocating future training costs to all benefitting programs, (2) segregating costs of joint training that have allowable and unallowable elements, and (3) monitoring contributed cost sharing to ensure that the State's share of title IV-E training costs is funded on a continuous and timely basis. We are also recommending that the State adjust the next quarterly claim to correct for the transposition error.

State officials disagreed with all the findings and recommendations except for the finding and recommendation related to the transposition error. In disagreeing, the State officials said that (1) our audit recommendations appeared to be inconsistent with the intent of authorizing legislation, and (2) that regulations, policy announcements, information memorandums and Department of Health and Human Services (HHS) Departmental Appeals Board (DAB) decisions were contradictory and ambiguous. The State officials indicated that recently introduced Federal legislation, that would allow training costs under title IV-E regardless of the distribution of children receiving maintenance or adoption assistance, was an attempt to clarify the intent of the original legislation. The State officials also indicated that they worked closely with HHS officials in designing their training program. Even though the State officials disagreed, they indicated changes would be made to the title IV-E program in recognition of current interpretations of existing regulations.

In response to the State's conclusions concerning our findings and recommendations, we believe present Federal laws, regulations, policies and DAB decisions clearly support our position. Also, the recently introduced legislation appears to be a change in legislative intent as opposed to an attempt to clarify the original legislation. Consequently, our findings and recommendations related to the period audited remain valid. In regard to the involvement of HHS officials on the design of the Kansas training program, HHS officials are bound by Federal laws, regulations and guidelines for administering programs.

The State's response is included in its entirety as Appendix E. Following the recommendations for each of our findings, we have summarized the State's response and added our comments.

BACKGROUND

The Adoption Assistance and Child Welfare Act of 1980 (Act), Public Law 96-272, established title IV-E of the Social Security Act. Title IV-E is a grant-in-aid program in which Federal, State and local governments share the cost of cash assistance provided to certain families with dependent children.

The Act authorized Federal financial participation (FFP) for the necessary training of State or local staff administering the title IV-E foster care plan. Foster parents and staff of foster care institutions are also eligible for training. All training activities funded under title IV-E must be included in the State training plan. Reimbursement of costs is subject to the requirements of Office of Management and Budget (OMB) Circular A-87, 45 Code of Federal Regulations (CFR) 1356.60, 45 CFR 235.63 through 235.66(a), 45 CFR Part 74, and various program policy statements issued by the HHS, Administration for Children and Families (ACF).

Training costs can consist of either direct training expenditures for employees who work solely on title IV-E or an allocable portion of training costs incurred by the agency providing foster care services. Allocated costs must be charged in accordance with a State's Cost Allocation Plan (CAP) which is approved by the HHS Division of Cost Allocation (DCA).

States claim reimbursement for training costs by submitting quarterly expenditure reports to the ACF. For the period of our audit, the State claimed training costs of \$14,824,320 which resulted in a Federal claim of \$11,118,240. Of the \$14,824,320 claimed, \$13,080,209 (Federal share \$9,810,157) represented training costs which were charged solely to title IV-E. The remaining \$1,744,111 represented allocations of State operating unit costs based on the results of random moment time studies which indicated State staff were involved in title IV-E training at the time of the studies.

OBJECTIVE, SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. The objectives of the audit did not require an evaluation of internal controls. The audit was limited to determining the allowability of training costs claimed for FFP under title IV-E. Specifically, we reviewed:

- training cost claims and supporting schedules for the 4 years ended September 30, 1996. We verified costs claimed during the 3 years ended September 30, 1996 to State accounting and cost allocation records. Accounting records were only available for 3 years.
- State contracts for training in which one or more payments were made to training contractors during either Fiscal Year (FY) 1995 or 1996. We reviewed the contracts to identify the titles and subjects of training conducted under the contracts.
- standard position descriptions for the general types of staff who normally attended the training for which related costs were charged to title IV-E. In addition, we reviewed specific job descriptions for certain State staff who attended training that the State identified as related to title IV-E functions.
- State foster care payment records for certain residential care facilities whose staff attended training identified by the State as IV-E training to determine if the facilities cared exclusively for title IV-E eligible foster children.
- expenditure reports for selected training contracts to evaluate whether contributed effort was sufficient to cover the 25 percent State share of title IV-E training costs.
- Federal laws, regulations and program policies applicable to administration of the title IV-E training program.
- the State's Child Welfare and Cost Allocation Plans.

We also held discussions with officials of the State and Regional HHS officials of the ACF and DCA.

Our audit was generally limited to review of costs directly charged to title IV-E. Field work was performed from December 1996 through February 1997 at the State office in Topeka, Kansas and at the HHS Regional Office in Kansas City, Missouri.

FINDINGS AND RECOMMENDATIONS

ALLOCATING TRAINING COSTS TO BENEFITTING PROGRAMS

During the 4 years ended September 30, 1996, the State charged training costs totaling \$13.1 million directly to the title IV-E Foster Care program, even though other programs such as the State-only Foster Care program also benefitted from the training. Maintenance payments for the State-only Foster Care program ranged from 49.72 to 58.53 percent of total foster care maintenance payments. Accordingly, the State should have allocated about \$6.8 million (Federal share \$5.1 million) of the training costs to the State-only Foster Care program.

The Office of Management and Budget (OMB) Circular A-87 states that (1) costs are allocable to particular cost objectives only to the extent of the benefits received by such objective, (2) only allocable costs are allowable, and (3) costs must be reasonable and necessary for proper administration of the program. Directive ACYF-IM-91-15 states that training costs for all training, including long-term educational training (degree programs), must be allocated among all benefitting programs and may not be direct-charged to title IV-E, unless title IV-E is the only benefitting program. In addition, HHS policy directives (ACYF-PA-87-05 and ACYF-PA-90-01) state that allocations may be determined by case count of title IV-E eligible children in relation to all children in foster care under the responsibility of the State title IV-E/IV-B agency, or on some other equitable basis.

Employees and foster parents (including residential care providers) who attended training provided services to both title IV-E eligible and non-IV-E children. Job descriptions for various staff positions showed that State employees did not occupy positions dedicated solely to the title IV-E foster care function. A more specific review of job descriptions for State staff who attended training showed that these staff performed functions related to programs other than title IV-E. In addition, a review of foster care maintenance payments to residential care providers (whose staff attended training) showed that non-IV-E children resided in the facilities at the time the residential care employees attended training. Likewise, foster parents who attended training did not always care for title IV-E children.

Training courses did not include subjects that benefitted title IV-E functions exclusively. For example, some training was to assist State staff in obtaining masters and bachelors degrees in social work. While this training may be useful to the title IV-E program, it is equally useful to the State-only Foster Care program covering children not eligible for title IV-E benefits. Consequently, the State should have allocated training expenditures to title IV-E based on the distribution of title IV-E to non-IV-E children or another equitable basis (as required by

aforementioned HHS policy statements). Appendix B provides a listing of training task orders for training under title IV-E during the year ended September 30, 1996.

The State did not maintain census statistics regarding the number of title IV-E children and non-title IV-E children who were under their care. Therefore, we could not reallocate training costs based on the distribution of children as indicated by HHS policies. However, foster care maintenance payment data for the title IV-E and the State only Foster Care programs was available. This data showed that the maintenance payments for the State only foster care program ranged from a low of 49.72 percent of total foster care maintenance payments in fiscal year 1996 to a high of 58.53 percent in FY 1993. In the absence of foster child census data, the distribution of title IV-E to other foster care maintenance payments was the most equitable allocation base that the State maintained.

Redistribution of the \$13.1 million training costs based on the distribution of foster care maintenance payments shows that the title IV-E program was overcharged about \$6.8 million (\$5.1 million Federal share) during the 4 years ended September 30, 1996. Appendix A summarizes the State's claim for direct title IV-E training costs and the results of our audit by year.

RECOMMENDATIONS

We recommend that the State:

- ❶ refund \$5.1 million to the Department for the excess charges to title IV-E during our audit period,
- ❷ adjust subsequent Federal claims for title IV-E training costs for excess allocations,
- ❸ establish acceptable procedures for allocating training costs to benefitting programs, and
- ❹ amend its cost allocation plan to provide for allocating the costs of training to all benefitting programs.

State Agency Response

State officials did not believe that they made excess charges to the title IV-E program. They said that allocating the training costs to all benefitting programs conflicted with the State's statutory entitlement to 75 percent of all costs of training necessary to the proper and efficient administration of the title IV-E State plan. The officials also said that allocating training costs between title IV-E and non-title IV-E eligible cases in order that all benefitting programs participate in the cost of training was a false argument. It used the following reasoning to illustrate this point:

A worker with Title IV-E cases must participate in the entire training program in order to effectively serve their Title IV-E caseload. A worker with a 50% caseload of Title IV-E children does not require only 50% of the training of a worker with a caseload of 100% Title IV-E children.

The State officials also said:

This interpretation is clearly not consistent with the intent of P.L. 96-272 to improve services to children and families by improving training. Every child welfare worker requires a full set of skills. If costs are necessary to achieve a training objective, then all the costs should be reimbursed at the prescribed statutory rate. If the training is necessary to the proper and efficient administration of the Title IV-E State Plan [42 U.S.C. Section 674 (a)(3)], then the State is entitled to reimbursement of 75% of these necessary training costs, regardless of whether those costs might also benefit another program.

Under this interpretation and its emphasis on benefits, a State could not recover 75% of the costs it must incur to train its staff to serve the Title IV-E population, which is clearly in contradiction to the Congressional intent which established this enhanced funding. P.L. 96-272 and its implementing regulations make no mention of allocating training costs to benefitting programs. In fact, Section 1356.60(b) of the regulations describes the training costs and enhanced federal participation with no mention of cost allocation. The very next section [1356.60(c)] relating to administrative costs, specifically requires such cost allocation. The clear assumption is that this omission with regard to training was intended.

Clearly Congress intended to provide an incentive for child welfare training; imposition of cost allocation is clearly contradictory to this intent and to the goals and missions of P.L. 96-272. In making this recommendation, the auditors relied heavily upon a Departmental Appeals Board decision. We believe that decisions must be based upon clearly written regulations, rather than on conflicting policy announcements, information memorandums and Departmental Appeals Board decisions. With regard to conflicting interpretations, it should also be noted that this audit covers the four year period ending September 30, 1996 during which there have been numerous changes of policy and conflicting interpretations made by the Department of Health and Human Services and in Departmental Appeals Board decisions.

In regard to OMB Circular A-87, the State officials made the following statements.

Much emphasis is made in the audit report regarding Office and Management and Budget (OMB) Circular A-87 and its statements regarding allowable costs. In fact, the Department of Health and Human Services has also relied upon this circular in directives it has issued around cost allocation. It is important to stress that OMB Circular A-87 is a comprehensive set of rules to be followed by federal administrative agencies to ensure appropriate, uniform grant administration. This circular itself does not require that costs be allocated, but rather that they be identified and accumulated for the purpose of cost determination. The intent of the Circular is not to determine the share of state, federal or local participation in the financing of a specific program.

The Circular itself gives federal agencies considerable latitude in determining how and when costs are to be allocated, including the option of charging all costs which substantially benefit one program to that program, even if other programs also benefit. To this date, the regulations regarding training include no indication or requirement of cost allocation.

The officials said many of their contacts with Federal representatives related to cost allocation, and their cost allocation plan was submitted annually and clearly included an enhanced FFP title IV-E training at the 75/25 percent match rate.

In its final summary, the State said it would begin allocating training costs based on its title IV-E/non-title IV-E caseload in recognition of current interpretation of existing regulations, but indicated it should not be penalized for periods covered by the audit.

OIG Comments

We do not dispute the State's entitlement to 75 percent FFP for training costs necessary for administration of the title IV-E program. We also agree that every child welfare worker, including the workers providing services to non-title IV-E programs, must possess a full set of necessary skills. Accordingly, the cost of training that provides the full set of skills to workers of non-title IV-E programs should be allocated to those programs.

We also do not believe that the worker with a 50 percent title IV-E caseload requires only 50 percent of the training of a worker with a 100 percent caseload. Our report says that the costs of training which benefits more than one program should be allocated to each program based on the benefit derived.

Our interpretation of the rules and guidelines, which appears to have been misconstrued by the State, is not inconsistent with the intent of P.L. 96-272. Rather, our interpretation is based on cost principles which the State is required to follow as a condition of participation in the title

IV-E program. Our interpretation was based on ACF policy memorandums and DAB opinions that were issued on the subject as early as 1987 with no variances. The intent of P.L. 96-272 should not be misconstrued to mean that title IV-E fund training for all of the State's programs.

Under grant administration regulations at 45 CFR Section 74.27, States are required to abide by the cost principles as contained in OMB Circular A-87. Among these principles is the requirement to allocate cost to programs only to the extent of benefits received by the programs.

Contrary to the State's comments, OMB Circular A-87 paragraph C.3. states that costs are chargeable or assignable to programs in accordance with benefits received. Paragraph F. defines indirect costs as costs that are incurred for common purposes benefitting more than one program which are not readily assignable to the benefitting programs. The training costs which the State charged directly to title IV-E benefitted more than one program and the State elected to or could not separately identify costs chargeable to each. Consequently, the training costs were essentially indirect costs which were required to be allocated to each benefitting program.

Also, contrary to the State's assertion, Federal agencies do not have considerable latitude in determining how and when costs are to be allocated. While the cost allocation plan is submitted annually and clearly shows the 75 percent rate of FFP, such plan is not in sufficient detail to show that total training costs for the State are funded by title IV-E. Approval of the cost allocation plans assumes that the State abides by applicable rules and program guidelines including OMB Circular A-87 and ACF policy memorandums which both require training costs to be allocated to benefitting programs.

In regard to the State being penalized retroactively for *an approved Title IV-E training cost allocation methodology*, the initial ACF policy requiring allocation of training costs between benefitting programs was issued October 22, 1987 and again on July 24, 1991. Neither of the policies was rescinded or replaced. Both of these policy statements clearly stated that the costs of training had to be allocated to all benefitting programs and could not be charged directly to title IV-E unless title IV-E was the only benefitting program.

ALLOWABLE TRAINING ACTIVITIES

Some training provided by the State and charged solely to title IV-E included activities that were not allowable for title IV-E reimbursement. The cost of general training in social services is not allowable for title IV-E reimbursement, but can be charged to State programs funded by the Social Services Block Grant. We did not question costs related to these activities because State records did not separately identify allowable and unallowable portions of

individual training activities. For future charges, we are recommending that the State implement procedures to separately identify the costs that include both allowable and unallowable training elements, allocating only the allowable amount to title IV-E.

In Decision No. 1530 the HHS/DAB said *we see no basis for permitting States to charge to title IV-E the cost of training related to activities which are not themselves allowable title IV-E activities*. The DAB 1530 went on to say that there is a compelling basis for requiring that training be related to the allowable administrative activities listed in 45 CFR 1356.60(c)(1) and (2). Section 1356.60(c)(1) and (2) list the following as activities which are necessary for the proper and efficient administration of the title IV-E program:

(1) The determination and redetermination of eligibility, fair hearings and appeals, rate setting and other costs directly related only to the administration of the foster care program under this part are deemed allowable administrative costs under this paragraph. They may not be claimed under any other section or Federal program.

(2) The following are examples of allowable administrative costs necessary for the administration of the foster care program: (i) Referral to services; (ii) Preparation for and participation in judicial determinations; (iii) Placement of the child; (iv) Development of the case plan; (v) Case reviews; (vi) Case management supervision; (vii) Recruitment and licensing of foster homes and institutions; (viii) Rate setting; and (ix) A proportionate share of related agency overhead.

Section 1356(c)(3) states what administrative activities are not allowable for reimbursement under title IV-E. It states:

(3) Allowable administrative costs do not include the costs of social services provided to the child, the child's family or foster family which provide counseling or treatment to ameliorate or remedy personal problems, behaviors or home conditions.

In general, the description for most training provided by the State was written in such broad terms that we were unable to determine if the content included or did not include training that was related to the activities listed in section 1356.60(c) (1) or (2). However, we could determine that some training activities included topics that, at least in part, were not allowable under section 1356.60(c)(3). For example, training for masters and bachelors degrees in social work may include, to a lesser extent, training elements related to allowable title IV-E activities. However, primary training emphasis in the degree programs would involve instruction in the provision of social services or counseling which are unallowable title IV-E activities. Another training activity included instruction that would help divert foster care placement. Still other training included instruction on behavior management, child care training, and family management. Such activities represent social services which are not allowable title IV-E activities.

Social Services Block Grants provide funding to States for a broad array of services including social support services, child protective services, foster care services for children, and prevention and intervention services. The training costs that were unallowable to title IV-E are more appropriately funded by the Social Services Block Grant.

Appendix B lists the training task orders for the State FY 1996. The listing includes the State's description of training and audit comments concerning the applicability of the training to title IV-E. Training which included allowable and unallowable title IV-E activities was provided by outside entities (primarily State universities) under multi-task orders (more than one training subject or task). The cost of training was not broken down by subject, task or by amounts applicable to allowable or unallowable title IV-E activities. Consequently, we were unable to determine how much of the related costs were allowable or unallowable under the title IV-E program.

The State needs to identify and exclude the training costs that are not allowable title IV-E costs, before allocating remaining costs to benefitting programs.

RECOMMENDATION

We recommend that the State:

- ⑤ establish procedures to separate the allowable and unallowable costs of training activities to recognize the principles set forth in DAB 1530 and section 1356.60(c) (1), (2) and (3).
- ⑥ charge only allowable training activities to title IV-E.

State Agency Response

The State responded that the audit made very restrictive and narrow interpretations of P.L. 96-272. State officials said that it was unfair to penalize States acting within the clear intent of the law.

OIG Comments

Our finding was based primarily on decisions made by the DAB interpreting the law, regulations and program policies.

MONITORING COST SHARE

The State did not monitor donated university cost sharing to ensure that the required 25 percent match was met. Instead, the State relied on universities to maintain the cost share required by their contract budgets. The State reported its share of title IV-E training costs based on mathematical calculations that used the direct training costs reported by the Universities as the base. Cost reports from two universities, who provided training related to about 96 percent of 1996 training costs, showed that contributed cost sharing was often less than the required 25 percent State share at the time periodic cost reports were submitted. Cost reports from the remaining universities did not include information on contributed cost sharing.

As a part of the contracts, the State required universities and other training contractors to share 25 percent of the cost of providing the training. To obtain reimbursement training contractors were required to submit periodic cost reports to the State in the form of partial payment vouchers. The cost reports from most training contractors included only the costs related to the Federal title IV-E share and accordingly contained no indication that the State share was met.

Cost reports from the University of Kansas and Kansas State University did include both the Federal title IV-E share and State share of training contract costs. (The State share is provided by direct and indirect costs contributed by the universities). However, the State share reported, did not always meet the 25 percent requirement as follows:

University of Kansas: Analysis of expenditure reports supporting 5 payments totaling \$962,227 to University of Kansas showed that the 25 percent State share was not met for any of the payments. The State share deficits at the end of each reporting period ranged from \$10,619 to \$18,818. Although the quarterly cost reports to the Federal administering agency showed the State share of the costs were met for each of two quarterly reporting periods involved, such cost share was never met according to the expenditure reports from University of Kansas. Appendix C summarizes the results of our review of the University of Kansas cost reports.

Kansas State University: Analysis of cost reports supporting 13 payments totaling \$848,953 to Kansas State University (for one training contract) showed that the 25 percent cost sharing was not met at the end of 4 of 6 Federal quarterly reporting periods involved. The unmet share ranged from \$1,843 to \$90,688. In the remaining 2 quarters, University cost share exceeded the 25 percent requirement to the extent that cumulatively the 25 percent State share of costs was exceeded. Appendix D summarizes the results of our review of the Kansas State University cost reports.

The FFP in title IV-E training costs is limited to 75 percent. Consequently, the 25 percent State share of every dollar spent on title IV-E training must be paid by the State or contributed by the training contractors at the time expenditures are incurred.

RECOMMENDATION

We recommend that the State:

- ⑦ establish procedures to monitor contributed cost share for training contracts to ensure it is sufficient to cover the State's share of title IV-E costs on a current and continuous basis.

State Agency Response

The State responded that the contractors were not required to provide an even match throughout the contract period. Rather, the contractors were required to provided the 25 percent match for the entire 12-month period. The State said it would (1) research the effect of requiring contractors to report their match efforts on each billing statement instead of at the conclusion of the contract, and (2) that all statements received by contractors would be reviewed prior to payment to ensure compliance with contractual requirements.

OIG Comments

The State is required to document that the match was met when the cost is claimed for Federal reimbursement.

TRANSPOSITION ERROR

The State made a transposition error when preparing its report of title IV-E training costs for the quarter ended September 1994. The State reported costs of \$496,146 for training under program number 64350. However, the costs recorded in supporting accounting records for the program were \$27,000 less or \$469,146.

RECOMMENDATION

We recommend that the State:

- ⑧ make an adjustment to its next quarterly title IV-E claim to reduce the claim by \$27,000 to correct the transposition error.

State Agency Response

The State concurred with this finding and recommendation.

INSTRUCTIONS FOR AUDITEE RESPONSE

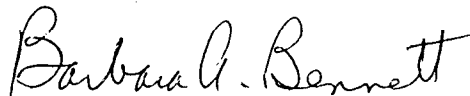
Final determination as to actions to be taken on all matters reported will be made by the HHS action official identified below. We request that you respond to each of the recommendations in this report within 30 days from the date of this report to the HHS action official, presenting any comments or additional information that you believe may have a bearing on the final determination.

* * * * *

In accordance with the principles of the Freedom of Information Act (Public Law 90-23), OIG, OAS reports issued to the Department's grantees and contractors are made available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemption in the Act which the Department chooses to exercise. (See 45 CFR Part 5.)

To facilitate identification, please refer to the above Common Identification Number A-07-97-01028 in all correspondence relating to this report.

Sincerely yours,



Barbara A. Bennett
Regional Inspector General
for Audit Services

Enclosures

HHS Action Official:

Linda Lewis
Regional Administrator, Region VII
Administration for Children and Families
601 East 12th Street Room 276
Kansas City, Missouri 64106

SCHEDULE OF DIRECT CHARGED TITLE IV-E TRAINING COSTS
CLAIMED AND RESULTS OF AUDIT

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

FOR THE PERIOD
OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1996

FISCAL YEAR ENDED	TRAINING COSTS CHARGED DIRECT TO IV-E		PERCENT OF IV-E TO TOTAL FOSTER CARE MAINTENANCE PAYMENTS	RESULTS OF AUDIT		
	TOTAL	FEDERAL SHARE		TRAINING COSTS ALLOCABLE TO IV-E	EXCESS ALLOCATED TO IV-E	FED SHARE OF IV-E EXCESS
09/30/93	\$1,091,542	\$ 818,657	41.47%	\$ 452,662	\$ 638,880	\$ 479,160
09/30/94	3,651,045	2,738,284	47.38%	1,729,865	1,921,180	1,440,885
09/30/95	3,975,451	2,981,588	47.58%	1,891,520	2,083,931	1,562,949
09/30/96	<u>4,362,171</u>	<u>3,271,628</u>	50.28%	<u>2,193,300</u>	<u>2,168,871</u>	<u>1,626,654</u>
TOTALS	<u>\$13,080,209</u>	<u>\$9,810,157</u>		<u>\$6,267,347</u>	<u>\$6,812,862</u>	<u>\$5,109,647</u>

SCHEDULE OF TITLE IV-E TASK ORDERS AND AUDIT COMMENTS
KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
FOR STATE FISCAL YEAR ENDED JUNE 30, 1996

Task Order	Description	AUDIT COMMENTS ABOUT APPLICABILITY TO TITLE IV-E
Develop and Test Competency Based Curriculum for IV-E Staff	This task order is to assist the Social Services Training Development Committee (TDC) in the development and implementation of a comprehensive competency based training system for youth services. Activities include: 1) Continue development of the competency based training system; 2) Maintain clearing house on child welfare curricula and competency based training; 3) Adapt existing training curricula and develop new curricula to complete the training program within Youth Services; 4) Evaluate training and coverage of competencies within the training system; 5) Develop and pilot system of individual needs assessments, development of individualized plans, supervisory support of competency development and assessment on the job; 6) Integrate the work of the Program Analysis Unit to assess competency attainment, identification of training needs and revisions needed in the competency training system; 7) Develop a model to evaluate and enhance the transfer of learning.	Description of training is too general to identify applicability to allowable title IV-E activities.
Alcohol and Drug Training	Training provided to youth service workers is aimed at increasing knowledge of the dynamics of addiction, and developing skills of working with families for the purpose of keeping children safe at home or reuniting children to safe homes. Activities include: 1) Provide the "Identifying and Responding to Families with Substance Abuse Problems" training to additional staff; 2) Conduct a curriculum development conference with the key actors from child welfare and substance abuse disciplines; 3) Develop curriculum to respond effectively to adolescents with substance abuse problems; 4) Develop curriculum and train workers to respond to the needs of children from families with substance abuse problems.	Topics indicate instruction relates primarily to social services activities which are not allowable for Title IV-E reimbursement.
Video Production Unit	The Video Lab supports all other training task orders in that it produces instructional videos to be used in Title IV-E training. Five videos planned include: Key Actor Partnerships for CINC Re-unification, Introducing Competency-Based Training, Working with African-American Families, Principles of Family-Centered Practice, Essential Life Style Planning. The lab will during the year also explore the use of cassette tapes for delivering training and will explore adapting existing video tape recordings to audio.	Instruction in re-unification is not allowable for reimbursement under Title IV-E. Remaining topics indicate instruction relates primarily to social services activities which are not allowable for Title IV-E reimbursement

**SCHEDULE OF TITLE IV-E TASK ORDERS AND AUDIT COMMENTS
KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
FOR STATE FISCAL YEAR ENDED JUNE 30, 1996**

Over-Representation of Minority Children and Families in SRS Custody and Placement	The project will build on the African American culturally competent curriculum previously developed and tested by accomplishing the following: 1) Deliver the African American culturally competent training in collaboration with the needs and goals identified in selected SRS Area Offices; 2) Expand curriculum to include special issues of the African American juvenile offender; 3) Develop tools and outcome-based methods for identifying staff who have achieved the SRS child welfare competencies indicating cultural competence; 4) Collaborate with the various SRS training efforts to integrate the cultural competencies into all training efforts as appropriate.	Topics appear to relate more to delivery of Social Services than to activities permitted under 1356.60(c) (1) and (2).
Key Actor Training	This task order is established to promote interdisciplinary collaboration to achieve the "reasonable efforts" mandate of preventing out-of-home placement, reunification, and permanency. Activities include: 1) A third annual statewide interdisciplinary conference on implementing "reasonable efforts" with a focus on juvenile offenders; 2) Provide technical assistance and training to local communities, counties or judicial districts to assist them in developing strategies to implement the "reasonable efforts" mandate; 3) Host two small invitation only key actor conferences on priority issues affecting Title IV-E eligible children as determined by the Commission.	Training to prevent out-of-home placement and reunification are not allowable activities for reimbursement under title IV-E.
Outcomes Measurement Training	This task order is to provide training and technical assistance to SRS staff and private providers who serve Title IV-E eligible children in order to establish, track and use client outcome information in addition to critical process indicators. Outcome indicators will be developed for selected purchase of service contracts and grants. Technical assistance and training will be provided to various Commission staff on system level outcome measures upon request.	Description of training is not sufficient to identify that training is for allowable activities outlined in section 1356.60(c)(1) and (2).
Wraparound Services Training	This project will continue developing training support for community reintegration by assisting communities in developing the resources necessary to keep at-risk children in their homes, communities, or at least restrictive environments. This year's project will expand the wrap-around training curriculum to include a community resource development component. This includes how to conduct a "capacity inventory" to assist in finding and developing a niche in community, conduct an inventory of key assets and resources in a community, and build community partnerships on an individual basis. The project will continue to broker technical assistance to local workers and offices on the implementation of the wrap-around technology	Description of training is too general to identify applicability to allowable title IV-E activities.
Diversion Case Management Curriculum Development	A social work student unit will be located at Kaw Valley Center in Wyandotte County to provide follow-up case management to families who come to the attention of the juvenile intake and assessment center to divert children from placement. Training curriculum will be developed from the ground up by using the experience from juvenile diversion projects of the early 1970's, models used for working with youth who have severe emotional disturbance, and the experience of the student unit.	Training related to diversion from foster care placement is not an allowable activity for title IV-E funding.

**SCHEDULE OF TITLE IV-E TASK ORDERS AND AUDIT COMMENTS
KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
FOR STATE FISCAL YEAR ENDED JUNE 30, 1996**

Standing Team Training Support	This task order will provide support to Youth and Adult Services Commission in the development of training materials generated by the Standing Teams. Such includes the preparation of handouts, outlines, visual aides and other training related materials. Through the use of computer technology, this task order will assist SRS Staff Development in developing and maintaining a system of staff records, training activities, and competency attainment. Other activities include providing assistance to prepare training on the use of computers, and maintaining an computer training lab.	Description of training is too general to identify applicability to allowable title IV-E activities.
Kansas Rural Child Welfare Project	This project is in the 4 th of a 5 year project to develop and distribute a multimedia, computer-based training series for child welfare practice. Ten training topics, each with specific competencies were selected from a state-wide needs assessment. Topics includes: 1) Child Development; 2) Professional Development; 3) Stress Management; 4) Social Workers and the Law; 5) Family Treatment Strategies; 6) Family Issues ; 7) Abuse and Neglect; 8) Practice Skills I; 9) Practice Skills II; 10) Adolescents. The task order also involves the purchase and placement of necessary computer and multimedia equipment in SRS training sites, and the provision of technical assistance and support.	Description of training is too general to identify applicability to allowable title IV-E activities. Most topics appear to relate more to delivery of Social Services than to activities permitted under 1356.60(c) (1) and (2).
Cultural Issues in Out of Home Placement of Minority Children	This task order will involve the development of training materials and providing training to address the over-representation of minorities in the child welfare system. The training will focus attention on the prevention of placement and will target specific field offices to provide training. Training materials will be developed to address culturally sensitive issues, such as socioeconomic and gender specific needs, in an effort to make placements more appropriate. Ongoing consultation project staff will be provided to SRS staff development as the curriculum is implemented during the year.	Instruction related to prevention of placement and social services are not allowable title IV-E activities.
SRS Mediation Training and Curriculum Development	This project will develop and deliver training and consultation designed to extend SRS skills in dispute resolution to enhance higher level functioning of trained staff, and to integrate dispute resolution and mediation skills functionally into the broader array of family and youth services. Activities include: 1) Assist development trainers in providing training based on 1995 curriculum in primary dispute resolution/mediation skills; 2) Provide advanced skills training for SRS staff who completed the primary training to develop an in-house network of "neutral third parties"; 3) Provide case consultation; 4) Evaluate the use of training; 5) Recommendations on a dispute resolution system and improved utilization of dispute resolution practices in problem cases.	Topics indicate instruction relates primarily to social services activities which are not allowable for Title IV-E reimbursement.
Marriage and Family Therapy Services for SRS Field Offices	This task order will address the gap between formal SRS training in family systems and marriage and family therapy (MFT) and actual practice of a SRS social workers. A mentoring program in the Salina Area office will work with individual social workers as they perform their duties. The focus of this task order is to model and demonstrate skills and techniques of MFT. Products of the task order will include a mentoring manual and a report assessing the use of MFT techniques and theories in an SRS office.	Topics indicate instruction relates primarily to social services activities which are not allowable for Title IV-E reimbursement.

**SCHEDULE OF TITLE IV-E TASK ORDERS AND AUDIT COMMENTS
KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
FOR STATE FISCAL YEAR ENDED JUNE 30, 1996**

SRS Training for Private Residential Providers	This project provides training for private residential providers for SRS. The purpose of this training is to further equip residential providers to work in conjunction with the implementation of the Family Agenda for SRS. The following components will be carried out: 1) Maintain Family Connections training (i.e. family systems, engagement of families, multi-cultural and development issues, behavior management); 2) Serving as Consultants (i.e. special issues, SRS family based assessment, role of the provider); 3) Creating new programming by providing technical assistance and training to develop family-centered services.	Topics indicate instruction relates primarily to social services activities which are not allowable for Title IV-E reimbursement.
Juvenile Sex Offenders Curriculum	An intensive treatment training curriculum will be designed in conjunction with the results from the first year of this project. The curriculum will focus on the treatment and case management needs of youth accused of sexual offenses who are involved with the SRS system. A training manual will be developed as a result of piloting and refining the curriculum. Training of trainers and on-going consultation will be provided.	Description of training is too general to identify applicability to allowable title IV-E activities.
Enhancing Neighborhood Based Services to Families	This project will set up service-learning assignments for social work students in the Cities in Schools program in Wichita/Sedgewick County and other neighborhood-based agencies. The students would provide services to families and children at risk of out of home placements. A training curriculum would be developed for students, social work practitioners and other practitioners associated with community agencies. The curriculum would include preparation in strengths-based assessment, case management, and community organization, and would emphasize linkages among children, families, care givers, schools and other neighborhood support networks.	Description of training is too general to identify applicability to allowable title IV-E activities.
Self-Help Group Development Training	Kansas Self-Help Network will provide a training program for youth services staff throughout the state at the local office level to facilitate the development of self-help groups. Three levels of training will be available with at least 10 workshops being provided in at least 6 of the 12 SRS areas. Training will be customized to address the needs of each locale. The introductory workshop would provide an understanding of characteristics of self-help groups; what self-help groups can offer; effectiveness of self-help groups; how to gain access to existing groups; how to facilitate the development of new client run self-help groups; and the likely role of self-help groups in health care and welfare reform. Follow-up consultation and technical assistance will be available, and the impact of the training sessions would be assessed through a variety of evaluations methods.	Description of training is too general to identify applicability to allowable title IV-E activities.
Family and Adolescent Group Therapy	This task order is to provide training and technical assistance to the clinical staff of the CETU in conducting family therapy and adolescent group therapy. Thirty hours of class time for each topic will be provided during three consecutive days. Follow-up sessions will be provided at one month and six months following the training. Phone and on-site consultation will also be provided.	Description of training is too general to identify applicability to allowable title IV-E activities.

Appendix D

SUMMARY OF EXPENDITURE AND COST SHARE INFORMATION ON EXPENSE VOUCHERS SUBMITTED BY KANSAS STATE UNIVERSITY UNDER TRAINING CONTRACT 96-107

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

FOR CONTRACT PERIOD ENDED JULY 31, 1996

DATES		REPORTED STATE SHARE		REPORTED FEDERAL SHARE		REPORTED TOTAL COSTS		REQUIRED STATE SHARE		STATE SHARE EXCESS/(DEFICIT)	
FROM	TO	CURRENT	CUMULATIVE	CURRENT	CUMULATIVE	CURRENT	CUMULATIVE	CURRENT	CUMULATIVE	CURRENT	CUMULATIVE
07/01/95	07/31/95	\$2,694	\$2,694	\$15,452	\$15,452	\$18,145	\$18,145	\$4,536	\$4,536	(\$1,843)	(\$1,843)
08/01/95	08/31/95	5,339	8,033	30,626	46,078	35,966	54,111	8,991	13,528	(3,652)	(5,495)
09/01/95	09/30/95	9,799	17,832	56,205	102,283	66,004	120,115	16,501	30,029	(6,702)	(12,197)
10/01/95	10/31/95	14,461	32,293	51,855	154,138	66,316	186,431	16,579	46,608	(2,118)	(14,315)
11/01/95	11/30/95	9,488	41,781	54,421	208,559	63,908	250,340	15,977	62,585	(6,489)	(20,804)
12/01/95	12/31/95	5,233	47,014	30,016	238,575	35,249	285,589	8,812	71,397	(3,579)	(24,383)
01/01/96	01/31/96	4,517	51,530	25,907	264,482	30,423	316,012	7,606	79,003	(3,089)	(27,473)
02/01/96	02/29/96	74,471	126,001	34,767	299,248	109,238	425,250	27,309	106,312	47,161	19,689
03/01/96	03/31/96	5,131	131,132	45,258	344,506	50,389	475,639	12,597	118,910	(7,466)	12,223
04/01/96	04/30/96	7,229	138,361	58,187	402,693	65,415	541,054	16,354	135,264	(9,125)	3,097
05/01/96	05/31/96	(23,906)	114,455	205,913	608,606	182,007	723,061	45,502	180,765	(69,408)	(66,310)
07/01/96	07/31/96	4,064	118,519	109,704	718,310	113,767	836,829	28,442	209,207	(24,378)	(90,688)
07/01/96	07/31/96	180,570	299,089	130,643	848,953	311,213	1,148,042	77,803	287,010	102,767	12,078

BILL GRAVES, GOVERNOR OF THE STATE OF KANSAS



KANSAS DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

915 SW HARRISON STREET, TOPEKA, KANSAS 66612

ROCHELLE CHRONISTER, SECRETARY

June 19, 1997

Office of the Secretary
Docking State Office Building
915 Harrison, Room 603 North
Topeka, KS 66612

Ms. Barbara Bennett
Regional Inspector General
601 East 12th Street
Kansas City, Missouri 64106

RE: CIN: A-07-97-01028

Dear Ms. Bennett:

We have reviewed the Training Costs Claimed Under Title IV-E of the Social Security Act audit report dated April 23, 1997. The Department of Social and Rehabilitation Services (SRS) takes exception with all of the audit report recommendations detailed in the report, except for the finding that identified a transposition error.

We would like to make a number of general comments about the audit report and its findings. As noted, the Department of SRS strongly disagrees with the major audit recommendations. The audit recommendations appear to be inconsistent with the intent behind funding and authorization for Title IV-E training. Clearly, the intent behind P.L. 96-272 was to enhance the services that are made available to children and families through improved training opportunities. Congress made the linkage at the time of passage of this legislation that training has a direct impact on the quality of services provided to children; thus, enhanced federal financial participation (FFP) was authorized for the program.

Since the inception of enhanced funding for child welfare training activities, regulations, policy announcements, information memorandums and Departmental Appeal Board decisions have been contradictory and ambiguous. In fact, no clear regulations exist to this date governing Title IV-E training and states are currently in litigation in response to Departmental Appeal Board decisions.

JUN 24 1997

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The Children's Bureau in the Administration on Children, Youth and Families requested public comment just last August through a notice in the Federal Register (August 21, 1996). The announcement indicated the intent of the Children's Bureau to issue guidance clarifying current policy and regulations regarding Title IV-E training and acknowledged that "numerous concerns and issues" had been identified regarding the program. No action has yet been taken by the Children's Bureau to provide such clarification even though numerous responses were received. (The public comment can be found in Attachment A.)

The United States Congress is considering legislative language to clarify its intent around these training issues, including a clear delineation that training costs be paid regardless of the proportion of children eligible for Title IV-E foster care maintenance or adoption assistance payments. The language being considered in S. 511, 105th Cong., First Sess., 143 Cong. Rec. S2646 (1997) would also clearly articulate the broad scope of training envisioned in keeping with the intent of P.L. 96-272.

Finally, as a general comment, the State of Kansas worked very closely since the inception of the IV-E training program with its partners at the Region VII Office of the Administration for Children and Families. In fact, the program was designed in concert with Region VII. Representatives of SRS and the University of Kansas met numerous times with individuals from that office in designing the training program, in the area of cost allocation, and in designing the state's Title IV-E stipend program for social work students. Training plans and task orders with universities were also included as attachments to the state's Child Welfare Plan. Attachment B summarizes contacts which took place from 1989 -1997 related to Title IV-E Short and Long Term Training.

In the paragraphs that follow, we provide a response to each issue raised in the audit.

Allocating Training Costs to Benefitting Programs. Audit report recommendations included 1) refund \$5.1 million to the Department for the excess charges to Title IV-E during the audit period; 2) adjust subsequent federal claims for Title IV-E training costs for excess allocations; 3) establish acceptable procedures for allocating training costs to benefitting programs; and 4) amend its cost allocation plan to provide for allocating the costs of training to all benefitting programs.

Response: We do not believe that the SRS made excess charges to Title IV-E. The notion that all Title IV-E training costs must be allocated among all benefitting programs conflicts directly with the State's statutory entitlement to 75% of all costs of training necessary to the proper and efficient administration of the Title IV-E State Plan. To suggest that reimbursement be reduced based on an allocation between Title IV-E and non-Title IV-E eligible cases in order that "all benefitting programs" participate in the

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cost of training is clearly a fallacious argument. A worker with Title IV-E cases must participate in the entire training program in order to effectively serve their Title IV-E caseload. A worker with a 50% caseload of Title IV-E children does not require only 50% of the training of a worker with a caseload of 100% Title IV-E children. This interpretation is clearly not consistent with the intent of P.L. 96-272 to improve services to children and families by improving training. Every child welfare worker requires a full set of skills. If costs are necessary to achieve a training objective, then all the costs should be reimbursed at the prescribed statutory rate. If the training is necessary to the proper and efficient administration of the Title IV-E State Plan [42 U.S.C. Section 674 (a)(3)], then the State is entitled to reimbursement of 75% of these necessary training costs, regardless of whether those costs might also benefit another program.

Under this interpretation and its emphasis on benefits, a State could not recover 75% of the costs it must incur to train its staff to serve the Title IV-E population, which is clearly in contradiction to the Congressional intent which established this enhanced funding. P.L. 96-272 and its implementing regulations make no mention of allocating training costs to benefitting programs. In fact, Section 1356.6(b) of the regulations describes the training costs and enhanced federal participation with no mention of cost allocation. The very next section [1356.6(c)] relating to administrative costs, specifically requires such cost allocation. The clear assumption is that this omission with regard to training was intended.

Clearly Congress intended to provide an incentive for child welfare training; imposition of cost allocation is clearly contradictory to this intent and to the goals and missions of P.L. 96-272. In making this recommendation, the auditors relied heavily upon a Departmental Appeals Board decision. We believe that decisions must be based upon clearly written regulations, rather than on conflicting policy announcements, information memorandums and Departmental Appeals Board decisions. With regard to conflicting interpretations, it should also be noted that this audit covers the four year period ending September 30, 1996 during which there have been numerous changes of policy and conflicting interpretations made by the Department of Health and Human Services and in Departmental Appeals Board decisions.

Much emphasis is made in the audit report regarding Office and Management and Budget (OMB) Circular A-87 and its statements regarding allowable costs. In fact, the Department of Health and Human Services has also relied upon this circular in directives it has issued around cost allocation. It is important to stress that OMB Circular A-87 is a comprehensive set of rules to be followed by federal administrative agencies to ensure appropriate, uniform grant administration. This circular itself does not require that costs be allocated, but rather that they be identified and accumulated for the purpose of cost determination. The intent of the Circular is not to determine the share of state, federal or local participation in the financing of a specific program.

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The Circular itself gives federal agencies considerable latitude in determining how and when costs are to be allocated, including the option of charging all costs which substantially benefit one program to that program, even if other programs also benefit. To this date, the regulations regarding training include no indication or requirement of cost allocation.

Many of the contacts with federal Region VII representatives as identified in Attachment B related to cost allocation. In addition, the agency's cost allocation plan is submitted annually to the federal government and clearly has included an enhanced FFP Title IV-E training at the 75%/25% match rate.

Allowable Training Activities. Audit report recommendations included 1) establish procedures to separate the allowable and unallowable costs of training activities to recognize the principles set forth in DAB 1530 and §1356.60(c)(1), (2) and (3); 2) charge only allowable training activities to Title IV-E.

Response: P.L. 96-272 clearly supports a holistic approach to child welfare services which is family-focused and preventive. P.L. 96-272 provisions such as the "reasonable efforts" clause were clearly aimed at preventing the removal of children from their homes wherever possible. The interpretation to support only training focused on foster care and adoption services -- services that begin AFTER the child is removed from the home -- are inconsistent with this intent.

In the law, Congress appears to recognize that child welfare services include a continuum of activities that include protection as well as case management. The goals of the child welfare system are: placement prevention, permanency planning and family reunification. All subjects which enhance the capacity of those in child welfare services should be allowable. Title IV-E training should support a holistic, family-focused, preventive approach to the delivery of child welfare services.

Decisions regarding allowable training show a narrow interpretation by the auditors. The regulation states allowable training includes certain topics but does not say that the items listed there are the only allowable training activities. For example, permanency planning is allowable training. However, reunification is not an allowable training topic even though reunification is part of permanency planning. We believe the auditors used a very restrictive interpretation of this regulation.

What is clear is that conflicting interpretations have been applied and that absent some clarity, it is unfair to penalize states acting within the clear intent of P.L. 96-272.

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Monitoring Cost Share. Audit report recommended that the State establish procedures to monitor contributed cost share for training contracts to ensure it is sufficient to cover the State's share of Title IV-E costs on a current and continuous basis.

Response: The contractors are not required to provide an even match throughout the contract period. The Department requires a 25% match for the entire 12 month period. Many contractors provide the match in the final reporting period.

The Department will research the effect of requiring contractors to report their match efforts on each billing statement instead of at the conclusion of the contract. All statements received by contractors will be reviewed prior to payment to ensure compliance with contractual requirements.

University offices of Research Support and Grants Administration rigorously review details of proposed budgets prior to endorsing any projects with the University's official signature. This includes a review of any cost share proposal. It should be noted that there were some short-term documentation issues with the new state payroll system which have been resolved. The Department will ensure that monitoring is sufficient to ensure that the state share of Title IV-E costs is covered on a cumulative basis.

Transposition Error. The audit report recommended making an adjustment to the next quarterly report Title IV-E claim to reduce the claim by \$27,000 to correct the transposition error.

Response: We concur with the transposition error and will be revising the next quarterly report to reflect the correction.

Summary

As you know, Kansas has taken tremendous strides in being innovative and proactive in the delivery of services. As Kansas breaks new ground with privatization of family preservation, foster care and adoption services, the importance of the "one worker" assigned to the life of the case was identified. The one worker concept enables all workers to be able to handle any type of case or any type of caseload and thus increases consistency to the children and family receiving our services. We have found the "one worker" concept to be an effective and efficient way of doing business with a clear impact on positive child welfare outcomes, consistent with P.L. 96-272. Whether or not a worker has a caseload (part or full) of Title IV-E eligible children should not have an impact on the funding source. It is our position to train all staff for all situations that they might be faced with throughout their employment with the

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Department. The skills required for good child welfare practice are the same, regardless of whether the case worker is serving a Title IV-E or non-Title IV-E child. Also, a child who is not a Title IV-E child today, may be a Title IV-E child at a future date; and a Title IV-E child today may lose that eligibility at a future date.

With regard to the findings related to the allocation of training costs to benefiting programs and allowable training activities, the audit report takes a narrow, limited interpretation. Even though we disagree with this finding, we believe that we have no choice but to make changes in our Title IV-E training program in recognition of current interpretations of existing regulations. Kansas has formed a task group to research how we can effectively capture the data requested in this audit report while maintaining a level of quality service and efficient operations. Training will be based on an allocation of costs based on a Title IV-E/non Title IV-E split, and enhanced reimbursement will only be claimed for the narrow range of activities identified in the Title IV-E administrative regulations. The agency's cost allocation plan will include these modifications.

Because of the lack of clarity regarding allocating costs to benefiting programs and the allowable scope of training activities, at the very least, we believe that Kansas should not be penalized retroactively for an approved Title IV-E training cost allocation methodology. The Kansas Department of Social and Rehabilitation Services was in compliance with the program regulations. The state acted in good faith and in partnership with our federal representatives in establishing a program to carry out the purposes and intent of P.L. 96-272. If you have questions, please contact Rita Barnard, Audit Director, at 913-296-2041.

Sincerely,



Rochelle Chronister
Secretary

Attachments

DEPARTMENT OF SOCIAL SERVICES

40 NORTH PEARL STREET, ALBANY, NEW YORK 12243-0001

BRIAN J. WING
Acting Commissioner

RECEIVED

MAR 03 1997

SRS CHILDREN &
FAMILY SERVICES

FEB 27 1997



Dear Respondent to Title IV-E Training Notice for Comment:

The August 21, 1996 Federal Register contained a notice of request for public comment concerning the implementation and management of Child Welfare Training under the Title IV-E of the Social Security Act. Through a Freedom of Information Law request, copies of the 117 sets of comments that were sent to the Children's Bureau in the Administration on Children, Youth and Families (ACYF) have been provided for our review.

The purpose of this letter is to provide respondents to the Federal Register notice with an overview of the comments submitted by the State and County Child Welfare Agencies, colleges and universities, professional groups, students and other concerned individuals.

Respondents generally agreed that the existing set of regulations, policy announcements, information memorandums and Departmental Appeals Board (DAB) decisions is at best confusing. Many stated that a group consisting of HHS, State and Local Governments, and social work education providers should be assembled to prepare one act of clear regulations in conformance with the intent and spirit of Public Law 96-272, The Adoption Assistance and Child Welfare Act of 1980.

The comments most frequently expressed were:

1. The IV-E enhanced training funding rate should cover training related to child welfare, family preservation and support, not just foster care and adoption assistance.
2. Reimbursement for training expenditures benefiting the Title IV-E program should not be reduced based on an allocation between IV-E and Non IV-E eligible cases.
3. The 75% FFP rate should apply to all real costs of training, direct and indirect, including the costs of administering the training program.
4. Private colleges should be allowed to contribute a State share.

Attachment A to this letter provides a sample of comments on the above-noted topics. This attachment may be useful to you when preparing comments on a notice of proposed rule making in the Federal Register should ACYF decide to revise the regulations.

Several Commentators expressed concern that interpretations of DHHS Regional Office staff, auditors, and even the holding of the DAB appear to be more related to limiting Federal reimbursement than to addressing the intent and goal of the Title IV-E program. During a discussion with ACYF staff, I was told that when the concerns are addressed "cost will be a major factor" in any changes that may be made to the regulations.

The implementing regulations for the reimbursement of training expenditures under Title IV-E provide for federal matching funds at 75% for the costs of training personnel employed or preparing for employment by the State or local agency administering the plan (45 CFR §1356.60(b)(1)). These regulations add that "short and long term training at education institutions and in-service training may (emphasis added) be provided in accordance with the provisions of §235.63 through 235.66(a)" which are Title IV-A regulations. However, consistent with the legislative intent of Congress, there is no provision in Part 1356.60 that defines the term training expenditure or that distinguishes a direct training expenditure from an indirect training expenditure.

The ACF's interpretation of the Title IV-E and 45 CFR §1356.60(b) is wholly dependent upon an application of 45 CFR §235.64. On August 22, 1996 Congress repealed Title IV-A and enacted block grants for Temporary Assistance to Needy Families (TANF) as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. (See Pub. L 104-193, August 22, 1996) Upon approval of a new State plan, Title IV-A and the federal regulations promulgated to implement that legislation would no longer apply in that State. To the extent that 45 CFR §235.65 could have ever been a basis for holding in favor of ACF's policy interpretation, the above-referenced federal legislation renders the cited regulation, and ACF's accompanying interpretation obsolete. Congress made no provisions for old Title IV-A regulations to survive and be applicable to the Title IV-E training program. The absence of such Title IV-E reform in the 1996 TANF legislation repudiates the ACF policies being challenged by respondents to this notice for comment.

Based on our review of the comments, we believe that ACYF should immediately focus attention to the problems repeatedly addressed by the respondents. New regulations, unambiguous and true to the intent and spirit of PL 96-272, developed through a collaboration with State, local, university, and Child Welfare professionals should be promptly prepared and issued in draft through the Notice of Proposed Rulemaking process. All of the recommendations prepared by the Council on Social Work Education as a result of their analysis of comments received, (see Attachment B) should be incorporated in the revised regulations.

Fiscal considerations of HHS should not override Congressional intent. We should not allow any interpretation of PL 96-272 that provides for anything less than a full 75% FFP for all training-related activities. A reduction in Federal reimbursement will result in a reduction in the quality and quantity of training, an accompanying reduction in child welfare workers skills, and an increase in the number of children put at risk. As one commentator stated:

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"Many of the recent "interpretations" which have come out of DHHS in relation to Title IV-E training appear to have as their primary purpose the restriction of the reimbursement owed to States. Instead of trying to maximize the cost savings to the Federal government from the Training Program, DHHS should be making its policy decisions and rules with the goals and intent of the program in mind. In evaluating the goals and intent of Title IV-E training, DHHS should consider not only the Title IV-E program, but also the Title IV-B program from which the training originated and with which it continues to be linked through the submission of the State plan."

I hope that this information is useful to you and encourage you to lobby for a prompt NPRM that incorporates the recommendations cited above.

If you have any questions, please call me at (518) 473-8215 or 474-2130.

Sincerely,

Jerry Townley
Office of Financial Management

ATTACHMENT A

CONCERN #1 -

The IV-E enhanced funding rate should cover training related to Child Welfare, family preservation and support, not just foster care and adoption assistance.

COMMENTS:

"...PL 96-272 was passed in an effort to prevent children from languishing in foster care. Provisions such as the "reasonable efforts" clause were clearly aimed at preventing the removal of children from their homes wherever possible. The requirement of the PIQ, to support only that training which is focused on foster care and adoption services which occur after the child has been removed from the home, is inconsistent with this intent. In the law, Congress appears to recognize that child welfare services include a continuum of activities that include protection as well as case management. To prepare staff to function as child welfare caseworkers requires training on a wide array of competencies as well as specific case management skills."

"The goal of the Adoption Assistance and Child welfare Act is to reunite children with their families, secure a permanent adoptive home, prepare for independent living, and secure a least restrictive foster care setting. Thus, training and instruction should incorporate placement prevention, permanency planning, family reunification, family support, independent living, and case management. Clarity is needed with respect to what constitutes "allowable" training topics for those employed or preparing for employment with Title IV-E eligible children".

"There also is a need for clarification of which courses (or sequence of courses) are eligible for Title IV-E reimbursement in undergraduate and graduate programs. Should these determinations be made by fiscal and accounting officers in the federal regional offices or should they be made by the state agency in collaboration with the faculty of the respective universities taking into account our emerging knowledge about competency-based child welfare practice? Ideally, the Title IV-E partnerships will benefit from the findings of the interdisciplinary training grants funded by the Administration on Children, Youth and Families as well as from other ongoing research and training aimed at increasing the relevance of social work practice to children and families."

"This law was designed to reduce the number of children coming into substitute care through reasonable efforts, to ensure ongoing work with all children in care through the requirement for case planning, administrative and judicial review in order to reduce foster care drift, and create a casework atmosphere that promotes permanency planning including the provision of services before a child comes into custody, while the child is in custody and, if necessary, adoption subsidies in the case of the need for termination of parental rights.

...The most narrow interpretation of the scope of the law would appear to be reflected in recent DAB decisions. The broadest interpretation would seem to be reflected in the positions taken by some states and child welfare professional organizations who appear to argue that any and all training activities and expenditures be charged 100 percent to IV-E. We believe the Secretary, under Section 470, has the authority to exercise her discretion to determine what constitutes expenditures necessary to carry out the provisions of the law. [We] strongly encourage the Children's Bureau to propose and the Secretary to adopt the most expansive position possible with respect to the activities and coursework that are allowable IV-E training expenditures."

"...training on all subjects related to any requirement imposed by the act must be allowable for funding under the Act. [Our State] also has concern that the Division of Cost Allocation (DCA) often times intrudes into issues surrounding allowability of an activity instead of confining its review to the equitable allocation of the activity to various financing streams. [Our State] believes that matters related to allowability and allocability are severable. We believe that while DCA has exclusive jurisdiction over allocability methodologies, the determination of the allowability of activities which will be allocated is reserved to ACF as part of its review of the training activities incorporated into a state's IV-B plan per 45 CFR 1356.60 (b) (2)."

"This distortion of congressional intent has placed short-term considerations of budget savings ahead of the long-term interests of troubled children and families and ahead of promoting the effectiveness of child welfare programs in every state. We have no doubt that research would indicate a significant increase in long-term fiscal and social costs stemming from failures in the child welfare system to protect children and reunite families."

"The intent of PL 96-272 was for the states to provide a broad array of services from prevention to reunification to permanency. We believe its intent was also that the role of the federal government is to pay its fair share of Title IV-E training activities included in the State Title IV-B training plan, and not just those when "the subject of the training is related to performing administrative services regarding out of home placements". This was the wording given to [us] as the federal interpretation..."

"In the Department's view, training topics that benefit the goals of promoting placement prevention, pursuing foster care placements in appropriate instances, and developing comprehensive case plans that serve the best interests of children placed in foster care or in receipt of preventive services, benefit Title IV-E and are allowable training topics. The list of activities specified at 45 CFR §1356.60(c) (2) is not exhaustive."

DAB Dec. No. 1530, currently represents the source of DHHS policy on this issue. The DHHS should not continue to rely on this DAB decision. As the August 21, 1996, Fed. Reg. notice reflects, DHHS has no recent written policy regarding Title IV-E allowable training topics. When the

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Title IV-E program was being implemented, DHHS offered commentary on training costs under Title IV-E. ACYF-PIQ-82-17 (1982). In response to a question related to the scope of Title IV-E training projects, DHHS stated that within certain restrictions (unrelated to course content), "training may cover the full range of activities necessary to meet the States maintenance and service requirement of title IV-E". 82-17, p. 3 question 6. This statement was clearly in keeping with the scope of Title IV-E as perceived by the Agency at that time, and that as currently perceived by the Department. Yet, over time, DHHS seems to have shifted away from its original sense of the scope of training under Title IV-E.

In the absence of recent regulation or comprehensive policy, the DAB rather than DHHS program staff has become the policymaker concerning this issue. Now, DHHS regional offices have initiated or are planning reviews of states' training programs, with DAB Dec. No. 1530 as the subjective guide. In DAB Dec. No. 1530, the Division of Cost Allocation (DCA) made legal arguments in favor of a narrow interpretation of allowable training topics and, in large measure, the Board accepted DCA's views over those of the State of Illinois. Under Dec. No. 1530, training child welfare workers to be well acquainted with the variety and availability of community preventive services would not appear to be a Title IV-E training topic. See DAB Dec. No. 1530, at p.25. Training directed to develop and enhance caseworkers' skills to make appropriate decisions to remove children from their homes, would not appear to be allowable. Dec. No. 1530, at p. 25. Thus, states with training programs that successfully reduce foster care placements, are rewarded with less federal support for training that clearly benefits the Title IV-E program. Such an outcome is antithetical to the implementation of the express mandates of Title IV-E and to the intent of Congress.. A training policy based upon DAB Dec. No. 1530 will act as a disincentive to states' efforts to develop innovative training to keep families together, and to pursue effective placement prevention measures".

CONCERN #2

Reimbursement for training expenditures benefiting the Title IV-E program should not be reduced based on an allocation between IV-E and Non IV-E eligible cases.

COMMENTS:

"Clearly, the intent of PL 96-272 was to improve services to children and families by improving training to child welfare staff. The Enhanced FFP was proposed as a means of encouraging states to provide new training initiatives for these staffs. If DHHS interpretation is to require that all costs for Title IV-E training be cost allocated between the state and federal child Welfare programs (example: according to the number of children in care who are IV-E eligible, as a percent of all children in care), this effectively removes this incentive. In the 1993 proposed regulations, the cost allocation requirement was included only for administration, not for training."

"First of all, the notion that all Title IV-E training costs must be allocated among all benefiting programs conflicts directly with the State's statutory entitlement to 75 percent of all costs of training necessary to the proper and efficient administration of the Title IV-E State Plan, 42 U.S.C. section 674(a)(3). The State is entitled to reimbursement of 75 percent of all necessary training costs, regardless

of whether those costs might also benefit some other program.

If costs are necessary to achieve a training objective, then all of those costs should be reimbursed at the prescribed statutory rate, even if it is arguable that some program other than IV-E could derive benefit from those training expenditures. DHHS' misplaced emphasis on benefits received in practice means that the State can never recover 75% of the costs it must incur to train its staff to serve even its IV-E population properly under the State Plan. This obviously is inconsistent with what Congress intended. Congress made the decisions as to how foster care training should be allocated: 75% federal reimbursement and 25% state match.

...Even if DHHS' interpretation of OMB A-87 were correct, allocating among all benefiting programs would not necessarily be mandated. The intent of Congress and Public Law 96-272 is to lessen the emphasis on foster care placement and to encourage greater efforts to find permanent homes for children and the Department has made funds available for the program; therefore, cost allocation should not be required. OMB Circular A-87 requires costs to be identified and accumulated, but that does not necessarily mean that costs must be allocated. The Department's policy on the Title IV-E program takes precedence over Circular A-87. The cost principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal, State or local participation in the financing of a particular grant. This view has been upheld by DHHS's own Departmental Appeals Board in DAB number 963 where it was determined that costs do not necessarily have to be allocated to all benefiting programs proportionately. Degree programs in training and child care automation systems are two examples of DHHS allowing costs to be charged to Title IV-E without allocation."

"Neither PL96-272 nor the implementing regulations mention allocating training costs according to benefiting programs. Section 1356.6(b) of the regulations describes training costs without calling for cost allocation, while the following section, 1356.6(c), which discusses administrative costs, specifically requires cost allocation. DHHS regulations require states to be in compliance with OMB circular A-87 which gives federal agencies considerable latitude in determining how costs are to be allocated, including the option of charging all costs which substantially benefit one program to that program, even if other programs also benefit. The requirement to cost allocate removes the incentive to improve training by reducing the FFP."

"Regulation 1356.60(b) describes only the 75 percent reimbursement rate. Narrative in 45 CFR 235.63 through 235.66(a) refers to 75 percent reimbursement under Title I, X, XIV, or XVI and 50 percent under Title IV-A; Title IV-E is not mentioned. Regulations which do discuss cost allocation refer to administration (provision of services), not training. Title IV-E does not discuss cost allocation. Relying on interpretations and litigations creates confusion and inconsistency among states."

"In order to adequately service Title IV-E eligible children, every child welfare worker needs to have a full set of skills. Some of these

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skills are directly related to Title IV-E (such as eligibility determinations), and some represent good child welfare practice. It is impractical... to segregate Title IV-E children from other children and train only those workers involved with Title IV-E children. In addition, separating Title IV-E children is contrary to the federal government's commitment that all children, regardless of Title IV-E eligibility, have access to the same services and programs."

"Title IV-E does not authorize the Secretary to impose and mandate additional costs on states where states' laws do not mandate formal training for "state-only" child welfare programs, and state legislatures have not elected to appropriate additional state funds for such training.

Title IV-E does not expressly authorize the Secretary to mandate FNP factors on training projects designed to benefit the Title IV-E program. The discretion to impose such additional cost is not part of the compact between the federal government and the participating states under Title IV-E. Further, OMB Circular A-87 is a comprehensive set of rules to be followed by federal administrative agencies to ensure appropriate, uniform grants administration practices. It cannot be relied on an independent basis for imposing additional mandated costs on state legislatures. The ambiguity in this area has been recognized by the General Accounting Office (GAO) in GAO/HRD-94-7 (1993), and by the public accounting firm of KPMG Peat, Marwick, LLP in conducting the federally required 1994-95 Single State Audit of [our] state. Audit Ref. No. CIN A-02-96-42836, pp. 64-65 (1996). If Congress wants to impose an unfunded mandate under the guise of Title IV-E, it should do so unambiguously by amending Title IV-E. Should DHHS choose to pursue a policy of imposing FNP factors on states' Title IV-E training projects, the states would expect that DHHS will comply with the spirit of the federal Unfunded Mandates Act of 1995 (Pub. L. 104-4 (1995)) by affording the Advisory Commission on Intergovernmental Relations (AICR) an opportunity to review the existing mandate and revisions thereto contemplated by DHHS. This 1995 legislation is applicable to Title IV-E.

At the very least, it should be DHHS' position, in the spirit of partnership, that no state should be penalized retroactively for approved Title IV-E training cost allocation methodologies that provide for the allocation of all Title IV-E training project costs to Title IV-E."

CONCERN #3:

The 75% FFP rate should apply to all real costs of training, direct and indirect, including the costs of administering the training program.

COMMENTS:

"The PIQ assertion that only the costs and activities specifically named in the title IV-E regulations are allowable training costs would again place limitations on the states that are not required under the law. In place of such limitations we would suggest adopting the planning process described in the 1993 draft "Notice for Proposed Rulemaking on Requirements for the Title IV-E Training Program" (NPRM), which was proposed by your office but never issued. The NPRM calls for the state

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and regional DHHS office to work together to develop an annual training plan for use of IV-E funds. It also allows each individual state to decide how IV-E funds are best used to meet the unique training needs of that state."

"Any assertion that only the costs and activities specifically named in the title IV-E regulations are allowable training costs would again place limitations on the states which are not required under the law. We would hope that we could join in discussion with the DHHS office to assure accountability in the use of IV-E funds. This would also allow each individual state to decide how IV-E funds are best used to meet the unique training needs of that state. The state...has followed that concept in the past three years with DHHS Administration for Children and Families, Region X staff."

"In DHHS's view, the federal Title IV-A Training regulations, 45 CFR §235.63-66(a), made applicable to Title IV-E under 45 CFR §1356.60(b), can be interpreted to exclude as allowable Title IV-E training costs, those state and local costs and/or indirect costs rates that include costs that are not expressly identified as training costs under the Title IV-A regulations. Accordingly, while it is acceptable to claim these unidentified training costs as allowable administrative costs under Title IV-E at 50% FFP, these costs are not eligible for reimbursement at the enhanced 75% FFP rate. This view has recently been accepted by the Board in DAB Dec. No. 1422.

In the Department's view, State and local Title IV-E agency indirect costs or DCA-approved indirect cost rates, and administrative costs incurred to support training activities constitute allowable training costs in that they are necessary and beneficial to ensuring that training programs and projects are successfully conducted. There is no provision in Title IV-E or Title IV-E regulations that expressly excludes these costs from being considered allowable training costs. As these indirect costs are incurred for the benefit of the training, allocating these costs to a training cost pool, and to the Title IV-E Training cost pool is fundamental to and required by OMB Circular A-87, Attachment A, C.3.a., and F.1.

The DHHS's policy, again, as derived from DAB Dec. No. 1422, is a discretionary one. It is not bound by express language in Title IV-E. It is not clear under 45 CFR §1356.60(b)(1) that there is any limitation on what constitutes the reasonable and necessary "costs of training personnel employed or preparing for employment by the State or local agency". Further, it is unclear that 45 CFR §1356.60(b)(3) applies to all training. To the extent that it does, it was promulgated with the permissive word "may" rather than "must". This citation alone is an insufficient basis for excluding the indirect costs in question. Such exclusion originates from a policy interpretation that opts for a restrictive view of what will be accepted as training costs under Title IV-E. However, such an interpretation is unreasonable under Title IV-E, and serves only to muddle states' efforts to effectively train child welfare workers to serve the needs of Title IV-E children who are placed into foster care and who are candidates for foster care placements."

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Concern #4:

States should be allowed to use in-kind contributions from private training contractors as matching funds under Title IV-E.

Comments:

"In DHHS' view, states are prohibited from using private in-kind contributions to satisfy state match requirements under Title IV-E. Since 1973, DHHS has relied on a policy that prohibits states from using private in-kind contributions as state match absent compliance with 45 CFR §235.66(b). As Title IV-A was written then (and as Title IV-E is written now), the use of third party in-kind contributions from private contractors as state match was and is not prohibited by law. In 1973, the Department of Health, Education and Welfare (HEW) sought and obtained from OMB a waiver from the application of OMB Circular A-102, Subpart F, to Title IV-A. Subpart F generally authorized the use of third party in-kind contributions for state match purposes. However, Circular A-102 also allowed federal agencies to seek waivers from the application of certain Circular A-102 provisions. The HEW took advantage of this waiver option. The former subpart G of 45 CFR Part 74, which also expressly allowed for third party in-kind contributions, was excepted from application to Title IV-A pursuant to 45 CFR §201.5(e).

In the Department's view, states should be able to use third party in-kind contributions from private training contractors as state match under Title IV-E. Allowing for such contributions as state match benefits the purposes and goals of Title IV-E. As has been noted above, neither Title IV-E nor its related regulations expressly prohibit such use. Further, DHHS' policy and waiver have continued to be applied without OMB ever revisiting the 1973 waiver. Since 1973, Title IV-E has been enacted; part 74 of 45 CFR, and OMB Circular A-102, which has been reissued in 1981, were superseded by the new Part 74 issued August, 1994. See new 45 CFR §§74.3, and 74.23. Further, the regulations promulgated in 1982 to implement Title IV-E, in particular, §§1355.40(b), and 1356.60(b)(3), do not except Subpart G of 45 CFR Part 74, from being applicable to Title IV-E, or reference 45 CFR §235.66(b) as being applicable to Title IV-E. In fact, DHHS had expressly acknowledged this regulatory change and the issuance ACYF-PIQ-82-17, p. 3, question 5 (1982). These regulations have continued unchanged despite the reissuance of Part 74. Yet, DHHS has retreated from 82-17, in its reliance on the 1973 waiver as a basis for its current position on this issue. The significance of inconsistency between Title IV-E regulations and current DHHS policy is heightened by the Board's commentary that, "to the extent that (a) PIQ is inconsistent with the regulations, it appears that the regulations should govern since they were clearly binding on the State". Washington State Department of Social and Health Services, DAB Decision No. 1214 P. 14, fn. 12. The validity and application of the 1973 waiver to the Title IV-E program in 1996, and into the future is questionable.

The reasoning used by HEW to obtain the waiver in 1973 should be reconsidered with the states in light of the purposes and goals of Title IV-E and in accordance with the new "deviation" provisions set forth at

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45 CFR §74.4. Further, the fairness of this policy should be considered inasmuch as it restricts competition, discourages and reduces the participation of minority-based training contractors, and gives public training contractors an advantage over private contractors in that states can continue to use contributions from public universities and colleges as state match. In the effort of developing cost-effective annual Title IV-E training programs, this factor places increased importance on funding streams at the expense of securing the most creative and effective training curricula and training presentations."

"We understand the 45 CFR 1356.60(b)(3) allows public funds to be used for State match for training under title IV-E, as long as the conditions stated at 45 CFR 235.66(a) are met. We also understand that 45 CFR 235.66(b) which permits donated private funds as match for training was excluded from the title IV-E program (45 CFR 1356.60(b)(3)).

Beginning at this point our understanding differs from yours. We believe that the federally established indirect rate at the private school can be used, in this case, as part of the state match.

As a state agency, we are required to follow the cost principles in OMB Circular A-87. As you know, when governmental units incur costs with a publicly-financed educational institution, the cost principles are then subject to OMB Circular A-21 (OMB Circular A-87 Attachment A Paragraph 3).

We are also aware that the applicable OMB Circulars do not contain the conditions referred to in the earlier policy interpretation questions. We, and the DHHS/ACF regional office, have concluded that there must be an exception to the circulars. We have requested to be given a copy of the exception, but the regional office has not been able to provide one."

"We do not believe the distinction between public and private funding of the match has any policy validity. More important would be a requirement that the public agency participate in financing at some significant level. The goal is to create a financial partnership between the state agency and the educational community for the purpose of improving the quality and quantity of professionals working with our children."

"Due to the prohibition against the use of private dollars as match, the training provided by the professional schools at private universities is all the more costly, thereby consuming more of the limited funding available for training. Although [our state] does not reject contracting with private colleges or universities based solely on this fiscal impact, it is one factor which is taken into consideration when developing our training options.

In addition, there are times in which a private university or other entity may be the only source or a superior source for training."

"This area is served only by private schools, which have developed excellent social work programs responsive to the unique needs of the community. The state agency is committed to providing training and

educational programs in these areas, and is currently using general fund dollars as match. This sets up an inequitable situation where more agency dollars are spent on private schools than on public. This cannot last indefinitely and we stand the real risk of losing programs of critical importance to the people of our state. The Schools' programs meet the standards of our consortium, and are closely scrutinized by the state agency. There are sufficient checks and balances by a publicly-influenced process to guard against any inappropriate private influence. It makes good business sense, the controls are there, and the children and families of these regions will not be served without the federal participation and the private match."

"Ancillary benefits of private funding partnerships that can also be achieved include:

1. Higher level of private sector vestment in program design, relevance of components, and eventual outcomes of training project undertaken.
2. Improved access to additional skilled service providers serving the private agency who enters into financial partnership with the public sector.
3. More grassroots community involvement which enhances the capability of other support systems to recognize the relevance of public agency needs to their individual area of endeavor (such as the educational barriers faced by adoptive families and difficulties with consistent, effective mental health service)."

"Enforcing the disallowance of private university match undermines public-private partnerships which have been encouraged by the Children's Bureau, as well as the Administration and Congress. The use of private match should be governed by 45 CFR Part 74, Subpart G."

Recommendations

- The 75% FFP should not need to be cost-allocated between Title IV-E eligible and non Title IV-E eligible cases since the same skills are required whether you serve one Title IV-E case or 20.
- Title IV-E training funds should cover the costs of training based on the intent of P.L. 96-272, Family Preservation and Support, and the outcomes for children of permanence, safety and well-being, not just on training related to out-of-home placement.
- A holistic approach to child welfare should be reflected through the Title IV-E funded training program which should connect to the newly created Child and Family Services Review.
- The Title IV-E training plan should be developed by the state agency in consultation with the Regional Office as recommended in the 1993 "Draft" Notice of Proposed Rule-Making.
- New regulations should be developed through a collaborative process with the field, using the development of the Family Preservation and Support Services Program regulations as a model. Regulations, rather than policy guidance, also provides an opportunity for public comment.
- Since current policy is so unclear, states should be held harmless for interpretation discrepancies regarding Title IV-E training FFP prior to the issuing of new clarifying rules.
- States should be encouraged to develop long-term training plans so that agreements between the child welfare agency and the state do not need to be renegotiated each year.
- Private universities should be able to participate in the Title IV-E training program so that child welfare workers have the opportunity to participate in the most appropriate and accessible educational environment.
- The 75% FFP match should apply to all real costs of training including the costs of administration of the training program.

Council on Social Work Education
November 1996

One of the respondents provided the following analysis of the actual FFP that is provided after the "new interpretations" are applied. Several states have already received disallowances based on this methodology.

Effects of Interpretations

If the above "interpretations" are enforced throughout the country, it will have a dramatic effect on child welfare. This can be seen easily through the following example,

A training event is conducted by the child welfare agency for child welfare workers with the following attributes:

- 70% of the costs are directly related to delivering the training, 30% of the costs are indirect or administration of the contract.
- the state's foster care case count is 74% Title IV-E eligible
- the staff being trained spend 60% of their time on foster care maintenance activities and 40% on child protection activities
- 80% of the topics discussed fall under the activities listed at 45 C.F.R.

1356.60⁰

Under prior interpretations, 75% (federal financial participation) of the entire cost of the training event would have been reimbursed through Title IV-E. Under the new interpretations, only 24% of the costs would be reimbursed as follows:

Total Cost		Direct/ Indirect		Case Counts		Staff Responsibility		Topics		FFP	
100%	X	70%	X	74%	X	60%	X	80%	X	75%	= 19%
100%	X	30%	X	74%	X	60%	X	80%	X	50%	= 5%

On a \$500,000 training program, the difference between 75% and 24% reimbursement would be \$255,000. This is enough to prevent the program from happening at all, or may mean that the training must be substantially curtailed. In either case, the State's staff is less well trained to administer the state plan and serve the state's Title IV-E population.

SRS Children & Family
TITLE IV-E SHORT AND LONG TERM TRAINING

From a review of our records, it appears that there was considerable contact with Region VII, Health and Human Services related to the usage of IV-E Dollars for Training. There are also several references which leads one to conclude that the University of Kansas had several contacts with Linda Lewis of the regional office.

Title IV-B State Plan

The Title IV-B State Plan documents the child welfare services the state plans to do. It is a comprehensive document which delineates all activities of the commission. Short and Long Term Title IV-E Training is addressed in the IV-B Plan.

Child Welfare Work Group

The Regional Office and the four states in Region VII met on a regular basis to discuss child welfare issues and concerns. Use of IV-E Training Dollars appeared on most of the agendas. Federal representatives included Steve Nash, Robert Reed and Pat Brown. These meetings or conference calls were held on the following dates:

January 11 & 12, 1990

November 13 1991

July 16, 1993

November 19, 1993

December 13, 1993 (Discusses IV-A in addition to IV-E)

March 31-April 1, 1994

June 23 -24, 1994

Correspondence: See attached list.

TITLE IV-E SHORT AND LONG TERM TRAINING

DATE	TYPE from/to	COMMUNICATION
June 27, 1989	Letter from Robert Fain, HHS, Reg. VII.	Findings of the Review of Section 427 of P. L. 96-272. Kansas found to be in compliance.
July 7, 1989	Letter from Linda Lewis, Reg. VII	In response to inquiry from Linda Perrier. Attachments include: Use of IV-E for MSW & BSW degree programs and federal match
Jan. 26, 1990	Memo from Jan Waide	Implies conversations that KU Tom Gregoire had with Linda Lewis, Region VII.
April, 5, 1990	Letter KU to SRS	Copy of IV-E training documents sent to Linda Lewis, HHS, Herman Hafenstein - Administrative Services for in-put.
May, 1990	Letter to Robert Fain, HHS	Copy of agreement between SRS and the University of Kansas for short and long-term training. Documents to be an "Addendum" to the Title IV-B Plan.
July 7, 1990	Memo to Staff Development/ Administrative Services	Concerns expressed in a letter received from Robert Fain, HHS. (Could not find letter.)
May 14, 1991	Letter From Lyle Lauritsen	Questions regarding Cost Allocation Plan and Training.
June 19, 1991	Letter From KU	Submitting amendment to a Task Order as suggested by Linda Lewis, HHS.
Aug. 2, 1991	Memo from KU	Recent conversation with Linda Lewis
Aug. 5, 1991	Letter From Herman Hafenstein	Response to inquiry from Region VII.
May 1992	Letter To David Shaw, APWA	Explanation of IV-E Training Claim.
July 1992	Memo from Carolyn Risley Hill	Implies discussion with Regional Office related to training issues.
Jan. 9, 1996	Request from Dave Ragan, HHS	Requested information be submitted on the IV-E task orders with the universities.
Jan. 31, 1996	Letter to Dave Ragan, HHS	Submitted requested information to the regional office.
March 1, 1996	Letter from Dave Ragan	Interpretation of our inquiry on who is eligible to be trained under IV-E.
April 8, 1996	Letter to Mary Jo Bane	Comments in response to proposed changes in Use of IV-E Training Dollars.
Oct. 18, 1997	Letter to Children's Bureau	Official Response to proposed changes in the Use of IV-E Training Dollars.